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November 20, 2024

VIA ECF

The Honorable Cathy Seibel
 United States District Judge
 United States Courthouse
 Southern District of New York
 300 Quarropas Street
 White Plains, New York 10601

Re: ***United States v. Frank Butselaar***
 22 Cr. 560 (CS)

Dear Judge Seibel:

We write on behalf of our client Frank Butselaar in connection with the government’s issuance of a misleading public press release on November 19, 2024 (the “Press Release”) in the above-captioned matter. A copy of the press release is attached as Exhibit A.

As Your Honor is well aware, Mr. Butselaar pled guilty mid-trial to a single count of aiding or assisting in the filing of a false or fraudulent tax return. The government’s Press Release states that, “[t]oday’s guilty plea [*sic*], which comes after a rigorous investigation, demonstrates that this Office will stop at nothing to ensure that tax professionals who decide to cheat and lie are held to account for their misconduct.”¹ This statement is literally false. The government in fact “stopped” its prosecution on the four leading counts lodged against Mr. Butselaar mid-trial, including the “major count” as that term is defined in the Justice Manual, § 6-4.310 (“Major Count Policy in Plea Agreements”). The government instead offered mid-trial to accept a guilty plea from Mr. Butselaar to arguably the least serious charge alleged – a single count, regarding a single tax year and single taxpayer implicating under the government’s theory the lowest amount of the alleged undisclosed global revenue. In doing so, the government voluntarily relinquished its opportunity to obtain a jury verdict on the remaining counts.

The inaccuracy of the Press Release begs the question of why the government would feel the need in the first place to promulgate publicly its unproven accusations following the limited plea to which it agreed. It is unclear what legitimate interest of justice is served by the

¹ The Press Release is dated November 18, 2024 although it appears to have been disseminated publicly on November 19, 2024. In addition, the quotation from the U.S. Attorney cites to “today’s guilty plea” although the plea to which he refers occurred five days earlier on November 14, 2024.

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government's public resurrection of these unproven allegations.² Even if any such interest exists, the Press Release mischaracterizes the evidence in the government's case-in-chief and conveniently ignores the reality that the case was resolved before Mr. Butselaar was able to present his defense case rebutting the evidence.

The government should be held to the higher standard that the Court and the public rightfully expect of it. *See* Nov. 13, 2024 Trial Tr. 1334:10-14. In this prosecution, the government failed to disclose material "helpful" to Mr. Butselaar until mid-trial and "purposely" curated 3500 materials to secure tactical advantages at trial. *See* Nov. 8, 2024 Trial Tr. 533:17-21, 546:19-21. With respect to the Press Release, defense counsel specifically sought reassurances immediately following the plea that the government would not issue any inappropriate public statements regarding the unproven charges and the Court cautioned the government to ensure that any press release be true and not suggest that the plea was broader than it actually was. *See* Nov. 14, 2024 Plea Tr. 27:20-28:19. The Press Release unfortunately demonstrates that the government did not heed the Court's guidance and Mr. Butselaar now faces the prospect of these unproven allegations forever being afforded more weight by the public than is appropriate.

We ask that the Court order the government to withdraw the Press Release and remove it from publicly available websites. While this will not "unring the bell" for Mr. Butselaar, we respectfully submit that it will at least hold the government accountable and restore the appropriate standards to which the government should be held.

Respectfully submitted,



Samidh Guha

cc: All Counsel (via ECF)

² The government's use of the phrase "as alleged" prior to its detailed though unproven attack does not cure the prejudice to Mr. Butselaar. *See United States v. Silver*, 103 F. Supp. 3d 370, 378 (S.D.N.Y. 2015) (rejecting "the government's suggestion that any prejudicial effect of otherwise improper comments is magically dispelled by sprinkling the words 'allege(d)' or 'allegation(s)' in its press release").

EXHIBIT A



PRESS RELEASE

International Tax Advisor Pleads Guilty To Tax Fraud In Concert With U.S.-Based CPAs

Monday, November 18, 2024

For Immediate Release

U.S. Attorney's Office, Southern District of New York

Guilty Plea Comes After Seven Days of Trial Testimony Demonstrating Sophisticated Scheme to Shelter Income Offshore on Behalf of Ultra-High Net Worth Individuals

Damian Williams, the United States Attorney for the Southern District of New York, announced that FRANK BUTSELAAR pled guilty on Thursday, November 14, 2024, to one count of aiding or assisting in the filing of a false or fraudulent tax return. BUTSELAAR pled guilty before U.S. District Judge Cathy Seibel, to whom his case is assigned.

U.S. Attorney Damian Williams said: “Today’s guilty plea, which comes after a rigorous investigation, demonstrates that this Office will stop at nothing to ensure that tax professionals who decide to cheat and lie are held to account for their misconduct.”

As alleged by the Government, and based on the testimony and exhibits received at trial, filings in Court, and statements made in Court:

BUTSELAAR advised the creation of offshore structures for multiple ultra-high-net worth individuals who earned money all over the world and did so while a shareholder in the Amsterdam Office of a major U.S.-based international law firm.

Those clients included world-famous DJs, including Tijs Verwest, p/k/a “DJ Tiesto,” and Nick van de Wall, p/k/a “DJ Afrojack” (the “DJ Clients”). Other celebrity clients included fashion models Patricia van der Vliet

and Daria Strokous (the “Fashion Model Clients,” and collectively with the DJ Clients, the “Clients”).

BUTSELAAR worked with partners at a U.S.-based management firm to file U.S. tax returns for the Clients (“Management Firm-1”).

When the Clients were becoming or had become U.S. tax residents, the defendant, and his co-conspirators — partners at Management Firm-1 — sought to conceal the Clients’ offshore income through the use of nominee owners of their offshore structures. As part of the scheme, these nominees were installed to make it appear as though the Clients’ earnings now belonged to someone else, generally a family member who lived outside the U.S.

Despite these paper changes in ownership, BUTSELAAR and his co-conspirators at Management Firm-1 never told the Clients anything of substance had changed. The Clients — with the knowledge of BUTSELAAR and his co-conspirators at Management Firm-1 — continued to operate their offshore entities as their own and believed they had access to and could direct the money they were accumulating offshore.

Between 2012 and 2017, when Verwest was a U.S. Resident taxpayer, BUTSELAAR and Management Firm-1 omitted from Verwest’s taxes substantial sums held offshore. Similarly, in 2013, when van de Wall was a U.S. Resident taxpayer, BUTSELAAR and Management Firm-1 omitted from van de Wall’s taxes substantial sums held offshore. The amount of unreported income for these two taxpayers exceeded \$70 million. During his allocution, BUTSELAAR admitted that partners at Management Firm-1 knowingly omitted overseas income, which should have been reported, from van de Wall’s 2013 U.S. resident return.

While the scheme was operating, BUTSELAAR was repeatedly warned that the income being collected offshore for his Clients was reportable. In fact, six different professionals — CPAs and tax lawyers in the U.S. — told BUTSELAAR that the offshore income being accumulated outside the U.S. for the Clients was reportable in the U.S. In the face of these repeated warnings, BUTSELAAR lied and concealed information from these professionals. Instead, BUTSELAAR worked with his co-conspirators, partners at Management Firm-1, to conceal otherwise reportable income from U.S. authorities.

* * *

BUTSELAAR, 66, of Naarden, Netherlands, pled guilty to one count of aiding or assisting in the filing a fraudulent tax return for the 2013 Tax Year for taxpayer Nick van de Wall, p/k/a “Afrojack,” which carries a maximum sentence of three years in prison.

The statutory maximum sentence is prescribed by Congress and is provided here for informational purposes only, as any sentencing will be determined by a judge. BUTSELAAR is scheduled to be sentenced by Judge Seibel on February 13, 2025.

Mr. Williams praised the outstanding investigative work of the Internal Revenue Service-Criminal Investigation (“IRS-CI”) and the Joint Chiefs of Global Tax Enforcement. Mr. Williams also thanked the Justice Department’s Office of International Affairs and Italy’s Ministero della Giustizia, Arma dei Carabinieri, Guardia di Finanza, and Interpol-Rome for their assistance.

The case is being handled by the Office’s White Plains Division. Assistant U.S. Attorneys Benjamin Klein, Shiva H. Logarajah, and David A. Markowitz are in charge of the prosecution.

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Topic

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Press Release Number: 24-348